

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9486 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SURESHKUMAR K JOSHI

Versus

GUJ AGRICULTURAL UNIVERSITY

Appearance:

MR TR MISHRA for Petitioners
MR SM MAZGAONKER for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/08/97

ORAL JUDGMENT

#. The petitioners, in all nine in number, working in the Gujarat Agricultural University, Sardar Krishi Nagar, Dantiwada, District Banaskantha, have filed this Special Civil Application and prayer has been made for direction to the respondents to grant them the time scale of Rs.750-900, the pay scale meant for unskilled workmen in the respondent University with further prayer for

direction to pay the arrears of fixation.

#. This petition has been filed by petitioners in this Court on 15th September 1993. The petitioners are not the only workmen who are working in the respondent-University on daily wages. Number of other workers are also there who are working on daily wages. After filing of this Special Civil Application, subsequent developments have taken place and the same have been brought on record of this Special Civil Application by the petitioners by filing Civil Application No.7713 of 1997, which has been decided today.

#. The union, namely, All Gujarat Kamdar Karamchari Union (hereinafter referred to as 'union'), of the employees working in the respondent-University raised industrial disputes for the daily wagers workmen of the respondent-University. The dispute pertains to the claim that their services have regularized and they may be given pay in the time scale on the principles of "equal pay for equal work". The aforesaid disputes raised by the union were referred to the Industrial Tribunal, Ahmedabad, which were registered as Ref.(II) No.206 to 219 of 1992. In those reference, the employees' union filed an application Ex.5 for grant of interim relief, which came to be partly allowed by the Tribunal under its order dated 13th February 1995 and the respondent-University was directed to pay an amount of Rs.500/- p.m. to the employees included in the reference with effect from 1st September. Against the aforesaid order of the Industrial Tribunal, the University filed Special Civil Application No.5859 of 1995 before this Court. The said Special Civil Application was dismissed. However, the order of grant of interim relief passed by the Tribunal was slightly modified to the extent of grant of interim relief from prospective date and not from retrospective date. The matter was thereafter taken up by University in Letters Patent Appeal and the same has also been dismissed on 2.12.96. The respondent-University has not felt contended after dismissal of the Letters Patent Appeal and it has taken up the matter before the Hon'ble Supreme Court by filing Special Leave to Appeal No.3007 of 1997, and that too has been dismissed. The petitioners were not listed employees in reference aforesaid. However, as per the case of petitioners, many of the employees junior to them were listed employees in the above reference and by virtue of interim relief granted by Industrial Tribunal at Ahmedabad, they started getting an amount of Rs.500/- p.m. as salary. The petitioners herein sent a notice to the

respondent-University and prayed for giving them the benefit of interim relief ordered by Industrial Tribunal, Ahmedabad, but the respondent-University has declined to grant that relief. Hence these petitioners filed Civil Application No.7713 of 1997, as stated earlier, before this Court, and prayer has been made for grant of benefit of interim relief of Rs.500/- p.m. to them.

#. The learned counsel for the respondent-University opposed the aforesaid Civil Application on the ground that the petitioners were not party to the reference pending before the Industrial Tribunal at Ahmedabad and as such, they cannot be given benefit of interim relief granted by the Tribunal.

#. Though technically, the respondent-University may be correct, but it being a 'State' or agency or instrumentality of the State within the meaning of Article 12 of the Constitution, should have acted fairly and reasonably as well as should have accepted its role as a model employer. Once the interim relief has been granted by Tribunal in the matter of a dispute raised by the union for regularization and time scale to be given to the daily wagers, then those benefits should have been extended to the petitioners irrespective of the fact whether they are the party to the reference or not. However, interest of justice will be met in case this Special Civil Application is disposed of with directions that the petitioners herein shall approach the Industrial Tribunal by filing an application in the reference filed by the All Gujarat Kamdar Karmchari Union and registered as Ref.(II) No.206 to 219 of 1992, in which interim order has been passed on 13th February 1995, for impleading them as party to those reference. Further, they may also file an application, in the said reference, for grant of benefit of interim relief granted in those reference. It is expected of the Tribunal that in case such applications are filed by petitioners, the same may be considered sympathetically and particularly, keeping in view the fact that the petitioners have approached this Court for the same relief. This course is being adopted by this Court for another reason that when dispute regarding the same subject matter is pending before the Industrial Tribunal, then it is in the interest of petitioners to join themselves as party in the said reference. It is further expected of the Tribunal that the applications filed by the petitioners for impleading them as party in the reference as well as for grant of benefit of interim relief are disposed of as early as possible, say within three months from the date of filing of the same.

#. With the aforesaid directions, this Special Civil Application and Rule stand disposed of. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

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